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Attorney Docket No. 37167-8039.US00

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



IN RE APPLICATION OF:

Balbierz and Johnson

SERIAL NO.: 09/823,903

FILED: March 30, 2001

U.S. Patent No.: 6,869,430 B2

Issued: March 22, 2005

FOR: **TISSUE BIOPSY AND TREATMENT
APPARATUS AND METHOD**

EXAMINER: Vrettakos

ART UNIT: 3739

CONFIRMATION No.: 7575

Communication

Mail Stop Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. On March 22, 2005, the above-referenced application, serial no. 09/823,903, issued as U.S. Patent No. 6,869,430.

2. On January 5, 2006, a Supplemental Notice of Allowability (hereinafter "Supplemental Notice") was mailed from the U.S. Patent and Trademark Office with an Examiner's Amendment. A copy of the Supplemental Notice is attached.


3. The Supplemental Notice purports to pertain to application serial no. 09/823,903. Applicants respectfully submit that since application serial no. 09/823,903 is now issued as U.S. Patent No. 6,869,430 the Supplemental Notice is in error.

4. It is believed that this Supplemental Notice was intended for U.S. Serial No. 09/823,910, which is co-owned with the present patent. The '910 application is currently allowed. Further, the amendment to the specification recited in the Examiner's Amendment corresponds to the specification of the '910 application.

5. Applicants respectfully request clarification regarding the Supplemental Notice.

If there are any questions concerning the above points, please call the undersigned at (650) 838-4410.

Respectfully submitted,

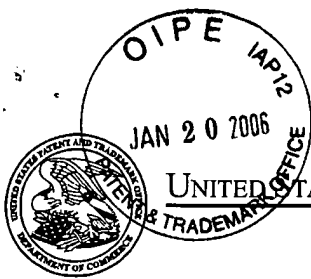


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Date: Jan. 20, 2006

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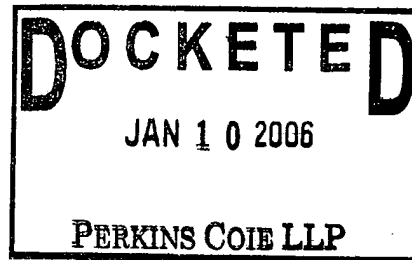
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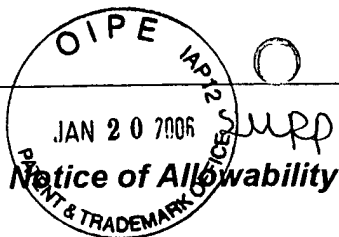
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,903	03/30/2001	Daniel J. Balbierz	37167-8039.US00	7575
22918	7590	01/05/2006	EXAMINER	
PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			VRETTAKOS, PETER J	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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Application No.	Applicant(s)	
09/823,903	BALBIERZ ET AL.	
Examiner	Art Unit	
Peter J. Vrettakos	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to after final dated 3-24-04.
2. ☒ The allowed claim(s) is/are 1, 5-7, 9-12, 14, 22-25, 28, 29, 31, 32, 34, 42-50, 52-74, 79 and 80.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Specification page 1, line 10: -- , which corresponds to application serial number 09/823,903, now USPN 6,869,430 -- has been inserted immediately after "13724-844".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos
December 4, 2005

PV

Michael Peffley
MICHAEL PEFFLEY
PRIMARY EXAMINER

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